

**CITY OF LINCOLN, NEBRASKA
COMMISSION ON HUMAN RIGHTS
MINUTES**

July 25, 2013
**CITY COUNCIL CHAMBERS
555 S. 10TH STREET**

The July 25, 2013, meeting of the Commission on Human Rights was called to order at 4:07 p.m. by Gene Crump, Chair.

ROLL CALL:

The roll call was called and documented as follows:

MEMBERS PRESENT:

Commissioners: Gene Crump (Chair), Liz King, Mary Reece, Hazell Rodriguez (Vice Chair), Bennie Shobe, and Micheal Thompson. Quorum present.

MEMBERS ABSENT:

Sue Oldfield and Takako Olson.

STAFF PRESENT:

Kimberley Taylor-Riley, Margie Nichols, Peg Dillon, and City Attorney Jocelyn Golden.

CHAIR COMMENTS:

Crump thanked the fellow Commissioners that took part in the Cornhusker games and walked in the Energy walk. Crump commented that it was a great Cornhusker games and asked that all Commissioners try to attend next year.

APPROVAL OF JUNE 27, 2013 MINUTES:

A motion was made by Shobe and seconded by Thompson to approve the minutes of the June 27, 2013 meeting.

Crump asked for the roll call. Voting "aye" was: Crump, King, Reece, Rodriguez, Shobe, and Thompson. Motion carried.

APPROVAL OF JULY 25, 2013, AGENDA:

A motion was made by Reece and seconded by Thompson to approve the July 25, 2013 meeting agenda.

Crump asked for the roll call. Voting "aye" was: Crump, King, Reece, Rodriguez, Shobe, and Thompson. Motion carried.

CASE DISPOSITIONS:

LCHR #12-1010-050-E-R

A motion was made by Crump and seconded by Reece to recommend a finding of **No Reasonable Cause** on all counts.

King commented about the difficult work environment as a result of his sex and age. King asked if Nichols felt the Complainant did not get the material he needed to do his job and if this contributed to his disconnected feeling within the company, resulting in a hostile work environment. Nichols answered that she was not the investigator on the case; however, she was somewhat familiar with it. Nichols agreed that the Complainant believed he did not seem to get what he needed to do his job. Rodriguez commented that the email the Complainant sent in response to being placed on the performance improvement plan was very helpful, and that she could understand how he struggled with the culture and procedures. Rodriguez commented about the Complainant's request to work at another location within the company, asking that, if he experienced discrimination, why would he want to work for this company?

Nichols commented that the Respondent did keep detailed notes concerning the Complainant's performance issues. Crump asked if the Respondent kept detailed notes for all employees. Nichols replied that she would not know the answer to that.

Rodriguez said the Complainant had shown that his errors with emails were minimal even though the Respondent used this as an item in his performance improvement plan. Rodriguez asked if the Respondent had any explanation or reply to the Complainant's email. Nichols replied that she did not recall seeing anything specific. She agreed that his being late to meetings did not appear to be a significant issue.

Hearing no further discussion, Crump asked for the roll call. Voting "aye" was: Crump, King, Shobe, Thompson, Reece, and Rodriguez. Motion for a finding of **No Reasonable Cause** carried.

LCHR #12-1206-060-E-R

A motion was made by Shobe and seconded by Crump to recommend a finding of **No Reasonable Cause**.

Rodriguez commented she did not believe that the Respondent's statement alleging that the Complainant was the only employee with access to the apartment was accurate. Nichols replied that she asked the Respondent about that statement and also about the location of the apartment. Nichols stated she was told that charge nurses had a master key. Nichols added that this resident hardly ever left her apartment, and that it was located in an area where very few employees had a reason to be there unless they were assigned to work that floor or were called to be there.

Rodriguez asked about the other employee, who reported the missing narcotics. Rodriguez said that employee would not have wanted to incriminate herself and had no choice but to report them missing when the resident brought it to her attention. Nichols replied that the employee reporting the incident had been working there for more than four years with no past issues, while the Complainant had only been there for a few months. Nichols commented that the other employee had a working relationship with this resident; however, there was no proof that the Complainant took the pills. Nichols stated that the Respondent was concerned about the safety of the residents, and made the decision to terminate the Complainant partly because of that. She stated the Respondent also provided evidence that showed a nurse was also terminated for the same reason as the Complainant, and there was also no proof the nurse had taken the narcotics. Nichols said that while in this case there was also no proof that the Complainant stole the medication from the resident, the Respondent made the decision to terminate her employment because it could no longer trust her.

Rodriguez commented that the issue is not that she was fired but that it was not related to her pregnancy. King said that the loss of her job could be tied to her pregnancy. King said that the only thing the Complainant did was to repeatedly ask for more hours. Shobe questioned if she did get the extra hours she requested. Nichols replied that she did get extra hours by trading with another employee. Nichols said that relating the Complainant's pregnancy to not receiving enough hours was difficult because there was another employee assisting the supervisor in creating the schedule. Nichols said evidence showed several instances where the Respondent accommodated surgeries, pregnancies, and restrictions for other employees.

Nichols said that the evidence did not seem to show a connection between the Complainant's termination and her pregnancy. Rodriguez said she did see that the pills went missing a second time after the Respondent began counting the pills to see if any more pills were taken.

Hearing no further discussion, Crump asked for the roll call. Voting "aye" was: Crump, King, Shobe, Thompson, Reece, and Rodriguez. Motion for a finding of **No Reasonable Cause** carried.

LCHR #13-0429-001-H

A motion was made by Rodriguez and seconded by King to recommend a finding of **No Reasonable Cause**.

Rodriguez questioned if the Respondent was truthful about following the policy or was there a misunderstanding about who could write a negative reference on the Complainant. Nichols replied that the Respondent was unaware that the residential manager had responded to the request and that reference requests were to go to the property manager. It was asked if the resident manager was aware that the property manager was to issue a neutral reference according to their policy. Nichols said she would assume so, but really couldn't answer that question since she was not the assigned investigator.

Rodriguez said that it was an accurate reference, and that they can decide to write it if they want to. Nichols replied that while the potential landlord did receive a negative reference, she had already decided not to rent to the Complainant.

Rodriguez asked if the Respondent's policy for providing references was legally based or their own preference. Nichols replied that it is their policy. Rodriguez asked if Nichols talked to the landlord about policies going forward. Nichols replied that this was Investigator Lemke's case so she did not know what conversations Lemke had with the Respondent.

Hearing no further discussion, Crump asked for the roll call. Voting "aye" was: Crump, Thompson, Reece, Rodriguez, King and Shobe. Motion for a finding of **No Reasonable Cause** carried.

OLD BUSINESS:

Taylor-Riley asked if Commissioners had all signed the card for former Commissioner Wendy Francis. Taylor-Riley said Francis would be given the card along with an engraved name plate honoring her service on the Commission.

Taylor-Riley reminded Commissioners that the Mayor's office was still accepting nominations for someone to replace Commissioner Francis. She said that Mayor Beutler hoped to assign a new Commissioner by next month. King asked who the recommendations should be sent to. Taylor-Riley replied that the names could be emailed to her before the end of this month and she would pass them along to the Mayor's office.

NEW BUSINESS:

Taylor-Riley said she would not be at next month's Commission meeting because she will be at a conference presented by IOAHRA / EEOC/ FEPA in Denver, Colorado. Shobe announced that a rally was going to be held on 15th Street between P and O on Friday July 26th, beginning at 4 p.m., concerning the Trayvon Martin injustice issue.

Next Meeting:

The next meeting will be Thursday, August 29, 2013, at 4:00 p.m. in the City Council Chambers at the County City Building at 555 S. 10th Street.

The meeting was adjourned at 4:35 p.m.